

**IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR**

**Present: Dr. Harish Kumar K., I.A.S.**  
Deputy Commissioner,  
Uttar Kannada, Karwar.

**No. RB/RTR/CR-56/2010-11**



**Between**

Shri. Soma Mani Gouda  
R/o Mudalamakki, Binaga Taluk Karwar  
(Represented through Advocate Sri R.V.Bhat)

**....Revision Petitioner**

**V/s**

1. Smt. Gulabi W/o Chudayya Gouda  
R/o Mudalamakki, Binaga, Taluk Karwar
2. Shri. Shrikant S/o Chudayya Gouda  
R/o Mudalamakki, Binaga, Taluk Karwar
3. Smt. Sunitha W/o Nagappa Gouda  
R/o Mudalamakki, Binaga, Taluk Karwar
4. Kavita D/o Chudayya Gouda  
R/o Mudalamakki, Binaga, Taluk Karwar
5. Shri. Suresh S/o Chudayya Gouda  
R/o Mudalamakki, Binaga, Taluk Karwar
6. Smt. Sanni W/o Krishna Gouda  
R/o Mudalamakki, Binaga, Taluk Karwar  
(Represented through Advocates Sri. B.S. Pai )

**.... Respondents**

**Sub:** Revision petition filed U/s 136 (3) against the order of Assistant Commissioner, Karwar No. RTS-AP-CR-33/08-09 dated 19-02-2010 in respect of mutation entry No. 3/2005-06.

**Preamble:**

The instant revision petition has been filed U/s 136(3) against the order of Assistant Commissioner Karwar dated 19-02-2010 in file No. RTS-AP-CR-33/08-09.

Both parties appeared through their counsel in pursuance of notices issued to them and after hearing both sides, this Court passed order dated 17-12-2012 dismissing the revision petition. This order was challenged by the revision petitioner before the Hon'ble High Court of Karnataka Dharwad Bench in W.P. No. 78014/2013. The Hon'ble High Court allowed the writ petition vide order dated 08-08-2017 with a direction to this Court as hereunder:

*Writ petition is allowed. Consequently, the order passed by the Deputy Commissioner in No. RTS/RTR/CR-56/10-11 dated 17-12-2012 is hereby quashed. The matter stands remitted to the Deputy Commissioner with a direction to hold an enquiry by means of giving opportunity to both the parties to ascertain the entries in the revenue records prior to the death of late Mani Gouda and who are all the legal representatives of late Mani Gouda and also whether the respondents have placed any materials to show the petitioner was given in adoption to Lakshman Gouda, etc. and thereafter pass appropriate orders in accordance with law with regard to the entries to be recorded in the RTC pertaining to the disputed survey number.*

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After the remand, the case was restored to its original number and after hearing both sides, this order is being passed bearing in mind the directions given by the Hon'ble High Court.

**Brief facts of the case are as hereunder:**

That the suit property in Sy.No. 31/2A of Binaga Village Karwar Taluk originally stood in the name of late Mani Gouda who has 2 sons by name Soma Mani Gouda, the petitioner herein and Chudayya Mani Gouda, the father of respondent No. 1 to 5 and a daughter by name Sanni Mani Gouda, the respondent No. 6 herein. After the death of Mani Gouda, the property was mutated vide entry No. ME 5187 dated 04-07-1994 in the name of Chudayya Mani Gouda as manager of the family. But after his death, instead of mutating the property in the name of all the legal representatives of Mani Gouda, the revenue authorities have mutated the property in ME No. 3/2005-06 dated 22-08-2005 only in the name of legal representatives of late Chudayya Mani Gouda who are the respondent No. 1 to 5 herein. These two entries were challenged by the petitioner in an appeal before the Assistant Commissioner, Karwar. The appeal was dismissed and against the order of the dismissal, the petitioner preferred revision before this Court which was also dismissed. Against the order of dismissal, the revision petitioner, as already referred above, filed writ petition before the Hon'ble High Court of Karnataka Dharwad Bench and the Hon'ble High Court vide order dated 08-08-2017 remanded the matter to this Court for fresh disposal in accordance with law.

**The Advocate for the revision petitioner argued that-**

1. The Assistant Commissioner, Karwar has dismissed the appeal without appreciating the points in dispute between the parties in proper perspective.
2. The Assistant Commissioner has wrongly come to the conclusion that the petitioner is not a legal representative of late Mani Gouda.
3. The Assistant Commissioner has failed to note that the respondent No. 1 to 5 did not adduce any evidence to prove their material contention that the petitioner was given in adoption to one Lakshman Gouda.
4. The impugned order is passed by the Assistant Commissioner, Karwar mechanically without applying his mind.

Hence on these among other grounds, the advocate for the revision petitioner requested to allow the revision petition.

Per contra, the advocate for respondents has argued in support of the impugned order passed by the Assistant Commissioner, Karwar. The learned counsel has also drawn the attention of this Court to the documents produced by him in support of his contention that the petitioner is no longer family member of deceased Mani Gouda as he was given in adoption to one Lakshman Gouda.



**The point for consideration before this Court is-**

1. Whether there are sufficient grounds to allow the revision petition?

Ans. In the affirmative.

After hearing the learned counsel for the revision petitioner and the respondents in the background of the lower Court records, it is seen that the material point is whether the revision petitioner Soma Mani Gouda was given in adoption to one Lakshman Gouda as contended by the respondents. In this regard, while disposing of the above said writ petition, the Hon'ble High Court of Karnataka has held at para 5 & 6 as hereunder:

*5. Basing the said one sentence in the objections raised by the respondents the Deputy Commissioner has dismissed the revision petition without enquiring into the real dispute between the parties that whether the revision petitioner is the legal representative of one Mani Gouda or not which is the crux of the case before the Assistant Commissioner and as well as before the Deputy Commissioner.*

*6. Whenever a dispute arises between the parties to some extent for limited purpose the Revenue Courts have also entitled to hold a summary enquiry in order to ascertain the rights of the parties tentatively only for the purpose of certifying the revenue entries in the concerned records.*

Bearing in mind the above observations of the Hon'ble High Court, this Court has meticulously perused the entire records to find out whether the revision petitioner is one of the legal representatives of late Mani Gouda or whether he has lost the status as legal representative as he was given in adoption to one Lakshman Gouda as contended by the respondents. It is true that in the certificate issued by Government primary school, Okalkeri, the petitioners name is mentioned as Soma Mani Gouda. But in the documents produced by the respondents, his name is mentioned as Soma Lakshman Gouda. These documents are the extracts of property tax register, electoral roll of 2019, ration card and copies of marriage invitation cards of sons of the petitioner. Added to these, the original documents in the LCR consists of an application dated 01-05-1994 filed by Chudayya Mani Gouda before the Village Accountant stating that he and Smt. Sanni Krishna Gowda are the legal representatives of late Mani Gouda and that the revision petitioner herein Soma Mani Gouda was already given in adoption to Lakshman Gouda. The contents of this application are admitted by the revision petitioner Soma Mani Gouda by endorsing the contents and affixing his signature on 01-05-1994 before the Village Accountant. These documents outweigh the evidentially value to be attached to the primary school certificate.

**Question before the court is that**

1. whether Soma Mani Gouda is the legal heir of late Mani Gouda?

Ans. Yes

2. Whether there is any proof regarding adoption of Soma Mani Gouda to Lakshman Gouda?

Ans. Prima-faci it is known that Soma Gouda was adopted by Lakshman Gouda. But no legal procedure has been followed during the time of adoption.

3. Whether adoption procedure was taken as per Hindu Adoption and Maintenance Act, 1956?

Ans. No

As per Hindu Adoptions and Maintenance act 1956 section 9(i) No person except the father or mother or the guardian of a child shall have the capacity to give the child in adoption. But in this case there is no legal records that father or mother or guardian have followed the legal procedure of adoption.

As per Hindu Adoptions and Maintenance act 1956 section 10(iv) No person shall be capable of being taken in adoption unless he or she has not completed the age of fifteen years, unless there is a custom or usage applicable to the parties which permits persons who have completed the age of fifteen years being taken in adoption. But in this case there is no documentary evidence that what was the age of petitioner at the time of adoption. Prima facie it is known that the revision petitioner Soma Mani Gouda is adopted to Lakshman Gouda but there is no document registered under any law in support of Soma Mani Gouda is the adopted son of Laxman Mani Gouda. Therefore Soma Mani Gouda is known to be legal heir of late Mani Timma Gouda. Tahasildar Karwar is hereby directed to Hence, I proceed to pass the following order.

No. RB/RTR/CR-56/2010-11

Date: 15-07-2019

**Order**

Revision petition is allowed.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 15-07-2019)



**Deputy Commissioner,  
Uttara Kannada, Karwar.**

**Copy to:-**

1. Advocate Sri R.V.Bhat and Sri B.S.Pai, for information.
2. Assistant Commissioner, Karwar for information and necessary action
3. Tahasildar Karwar for information and necessary action.